

# **MINUTES OF THE COMMISSION FOR HUMAN RIGHTS**

**February 22, 2007**

**An regular meeting of the Commission for Human Rights was held in the agency conference room on Thursday, February 22, 2007. Present at the meeting were Commissioners Iraida Williams, Alton W. Wiley, Jr., Dr. John B. Susa, Chairperson, Camille Vella-Wilkinson and Alberto Aponte Cardona. Absent were Jean Stover and Randolph Lowman. The meeting was called to order at 9:10 a.m.**

**A motion was made to approve the December 20, 2006 minutes, the January 3, 2007, January 25, 2007 and February 9, 2007 minutes. The motion was approved by Commissioner Wiley and seconded by Commissioner Vella-Wilkinson and carried.**

**Status Report: Michael D. Évora, Executive Director-**

**A written report was handed out. All new information will be in bold print.**

**Case Production Report - Attached**

**AGED CASE Report - Attached**

**Outreach Report - Attached**

## **STATUS REPORT - COMMISSIONERS-**

**GENERAL STATUS:** No report at this time.

**OUTREACH:** Commissioner Williams reported that she went to the Dominican Republic and met with the directors of schools for the hearing impaired. She spoke with about 50 to 80 parents about hearing issues. Commissioner Vella-Wilkinson will draft a press release highlighting Commissioner Williams' accomplishments. Commissioner Vella-Wilkinson reported that there was an article in the RI Monthly Magazine on racial profiling for which Michael Evora, Executive Director, was interviewed.

**Commissioner Meeting -2- February 22, 2007**

## **STATUS REPORT - LEGAL COUNSEL, Cynthia M. Hiatt**

**LITIGATION:** Report attached.

**LEGISLATION:** The Commissioners discussed pending legislation.

**REGULATIONS: No discussion at this time.**

**HEARING SCHEDULE: Discussed**

**DECISIONS: No discussion at this time.**

**The meeting adjourned at 10:35 a.m. The next regular meeting of the Commission is scheduled for Thursday, March 29, 2007 at 9:00 am.**

**Respectfully Submitted,**

**Michael D. Évora  
Executive Director**

**Notes taken by: B. Ross  
EXECUTIVE DIRECTOR'S  
REPORT TO COMMISSIONERS  
FEBRUARY 22, 2007**

## **I. BUDGET**

**The Commission's budget currently before the General Assembly is**

**as follows:**

	<b>FY 2007</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2008</b>
	<b>(Rev. Req.)</b>	<b>(Revised)</b>	<b>(Request)</b>	<b>(Recomm.)</b>
<b>S</b>	<b>1,038,846</b>	<b>989,630</b>	<b>936,493</b>	<b>984,197</b>
<b>F</b>	<b>286,549</b>	<b>323,679</b>	<b>311,111</b>	<b>404,743</b>
<b>T</b>	<b>1,325,395</b>	<b>1,313,309</b>	<b>1,247,604</b>	<b>1,388,940*</b>

**\*The Commission's original FY 2008 Budget Request contained a 15% cost reduction, as required by the Governor, which would have resulted in the loss of 2.5 positions, leaving the Commission at 12 positions. The budget request before the General Assembly funds the Commission for the full 14.5 positions to which the agency currently is entitled.**

**The Commission is scheduled to appear before the House Finance Committee on Monday, March 12, at 3:00 pm; the Commission will meet with the Senate Finance Committee/Subcommittee on Human Services on Thursday, March 15, at 1:00 pm.**

## **II. FEDERAL CONTRACTS**

**EEOC – For federal FY 2007, as of 1/31/07, according to EEOC Project Director Marlene Toribio, we have closed 74 cases. We will not receive our FY 2007 contract until February-March 2007.**

**HUD – For FY 07 (7/1/06 to date), according to HUD Project Director Angela Lovegrove, we have taken in 26 new housing charges, 25 of which are co-filed with HUD. Within this same time period, we have processed 27 housing charges, 25 of which were co-filed with HUD.**

### **III. PERSONNEL**

**Allison Cote, Sr. Compliance Officer, returned to work on January 31, 2007 in part-time status.**

### **IV. OUTREACH – Refer to attached report.**

### **V. GENERAL STATUS**

**&#9679;Meetings with staff members – I continue to meet with individual investigative staff members on a monthly basis to monitor case production.**

**&#9679;Case Closures – Refer to attached report.**

**&#9679;Aged Cases – Refer to attached report. Progress continues to be made on decreasing the aged caseload. The Commission**

successfully reduced the aged caseload by 86% in FY 2006 (from 14 to 2 cases).

•Commissioner (Re)Appointments – I contacted Christine DiFilippo (Governor's Office) on February 21 regarding (re)submission of the names of Cmsr. Susa, Cmsr. Vella-Wilkinson and Rochelle Lee for consideration by the Senate. Ms. DiFilippo said that Ms. Lee's name hopefully will be submitted for Senate confirmation "some time next week". She added that she had not been able to secure a meeting with the Governor to discuss the submission of Cmsrs. Susa and Vella-Wilkinson for reappointment and a nomination for a replacement for Cmsr. Lowman.

•Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. We ended FY 06 with 387 cases in inventory. As of 2/15/07, we had a total of 368 cases in inventory.

•Annual Report – The Commission's FY 2006 Annual Report is in! I am working with Susan Pracht on distribution to the General Assembly, courts, etc.

•Proposed Layoffs – The Governor has proposed approximately 514 layoffs of state employees to help address the anticipated budget deficit. To my knowledge, the Commission is not targeted for any layoffs. The layoffs may, however, affect the

**Commission via the “bumping” process.**

**Respectfully submitted,**

**Michael D. Évora**

**Executive Director**

**Attachments**

**To: Commissioners**

**From: Cynthia Hiatt and Frank Gaschen, Legal Counsels**

**Re: Litigation**

**Date: February 22, 2007**

**Recent developments are in bold.**

**Aquidneck Island v. RICHR, et al.**

**This suit was brought by the plaintiff against multiple parties, alleging that liens have been placed on its property improperly. All liens were against Norman Cardinale. RICHR’s lien was placed against Cardinale not Aquidneck and Frank Gaschen advised plaintiff’s attorney of this fact. Discovery is ongoing. Answers have been filed by the respondents.**

**Babbitt v. Crescent Park Manor, et al.**

**The Commission intervened as a party plaintiff in this case.**

**Discovery is continuing.**

**Bagnall v. RICHR and WLWC et al.**

**The complainant appealed the Commission Decision and Order. The Commission filed the administrative record on April 12, 2006. The parties are circulating a briefing stipulation.**

**Gaffney v Town of Cumberland et al**

**The respondent appealed the Commission decision. The parties and the Commission filed briefs. The case was assigned to Judge Savage. Judge Savage held a status conference with the attorneys, including Commission counsel, on January 21, 2005. Judge Savage indicated that she was close to issuing a decision but wished to give the parties an opportunity to discuss resolution. After a number of settlement attempts, it did not appear that resolution was near. On 1/4/06, CMH wrote a letter to the parties stating that if she did not hear from them by 2/6 that the case was close to resolution, she was planning to write Justice Savage to ask her to issue her decision. Not having heard from the parties, on 2/8/06, CMH wrote Justice Savage and asked her to render her decision as it did not appear that the parties would resolve the matter. On November 30, 2006, after seeking signatures from the other parties which could not be obtained, CMH sent a letter asking Justice Savage to consider issuing a decision in the near future because of Mrs. Gaffney's age.**

**Horn v. Southern Union Co.**



**This is a case filed in federal District Court in Rhode Island. Judge Smith certified a question to the Rhode Island Supreme Court: What is the statute of limitations for the Rhode Island Civil Rights Act, Title 42, Chapter 112 of the General Laws of Rhode Island (RICRA). The RICRA prohibits discrimination in contracts, including discrimination in employment contracts. The Commission has agreed to join an amicus brief that will argue that the proper statute of limitations is three years. (There is an argument that the statute of limitations is one year.) The new due date for the amicus brief is February 27, 2007.**

**Idowu v. Rhode Island Commission for Human Rights and Cohoes Fashions of Cranston, Inc.**

**The complainant appealed the Commission Decision and Order. The respondent filed a motion to dismiss the appeal on the grounds that it was filed too late. The Commission filed the administrative record on May 17, 2006. Hearing on the respondent's motion to dismiss was held on June 6, 2006. Judge McGuirl appeared to be ready to rule for the defendants, but offered Mr. Idowu the opportunity to submit more information. He accepted the offer. He retained an attorney who filed a last-minute objection to the motion to dismiss and appeared at the hearing on July 11, 2006. On this date, Judge McGuirl appeared to see the merit of complainant's argument that, even though the decision was dated, the decision did not specifically say that the date was the mailing date. (A party must appeal within thirty days of the mailing date.) However, she did not seem to feel that the document**

that the complainant filed within thirty-one days of the mailing date was sufficient to constitute a complaint. She will consider the matter and issue a decision on the motion to dismiss from the bench at a later date.

#### **Joint v. DeMarkey and Rhode Island Commission for Human Rights**

The individual respondent filed an appeal of the Commission Decision and Order and the Commission Decision on Attorney's Fees. The Commission filed the administrative record. The briefs were filed. The appeal was assigned to Special Magistrate Joseph Keough. He rendered a decision on September 22, 2006. He held for the Commission on several procedural issues, but reversed the decision, holding that the complainant had not proved sex discrimination. He said that the respondent had waived his right to raise the issue that the charge was not timely filed. He held that the Commission complaint had given the respondent sufficient notice of the charges against him. He overturned the Commission determination that the respondent had discriminated against the complainant because of her sex, holding that it is not sex discrimination if a supervisor terminates an employee because their voluntary sexual relationship has ended. The respondent sent Magistrate Keough a proposed Judgment and Order. There is a procedure for appealing a magistrate's Order to the Superior Court for review by a Superior Court judge. The time period for that appeal is short (48 hours), so the Commission filed that appeal on September 27. The matter was scheduled to be heard on the Formal

and Special Cause calendar on October 4, 2006. Justice Rogers wrote the parties a letter stating that Chief Justice Williams, in a series of monthly letters, has conferred on Magistrate Keough all the powers of a Superior Court judge and that therefore, appeal was to the Rhode Island Supreme Court. Ms. DeMarkey and the Commission filed a Petition for Certiorari and Memorandum in Support. In the meantime, Mr. Joint's attorney filed a Motion for Attorney's Fees, asking that the Superior Court order the Commission to pay Mr. Joint's attorney's fees under the Equal Access to Justice Act. The parties agreed that this matter would pass until the Supreme Court acted on the Petition for Certiorari. The parties also agreed that the Commission would delay discovery, on the issue of Mr. Joint's eligibility to claim attorney's fees, until after the Rhode Island Supreme Court acted on the Petition. Mr. Joint filed for a third extension of time to file his objection to the Petition. The Commission received Mr. Joint's Objection to the Petition for Certiorari and Memorandum in Support of Objection on February 13, 2007.

#### **King v. City of Providence Police Dept.**

This is a case in which the Commission issued a decision finding that the City of Providence had denied Mr. King a position as a police officer because of his age. The Commission had not yet determined damages when the FUD's decision came down, so the Commission decision was not final and the respondent had the opportunity to have the case heard in Superior Court. The respondent elected to

have the matter heard before the Superior Court. Ms. Hiatt has been subpoenaed to testify at the trial. The trial had been rescheduled to late September. The plaintiff was going to request another continuance; it has apparently been granted. The Commission has received no word on a new trial date.

#### **Laboy v. Stat Health Services**

Counsel is trying to locate respondent's officers in order to ensure compliance with the Commission Decision and Order.

#### **Ponte v. GTECH**

The plaintiff filed a records subpoena for her case file, several named case files and any other disability charges against GTECH. The Commission provided copies of the complainant's cleared file. The Commission objected to providing any other records on the grounds that such dissemination would violate the Health Care Confidentiality Act and that redaction of the health care information would be burdensome. The hearing on a motion to compel RICHR to produce was heard 9/27. The parties agreed on an Order. Still waiting for Order to be filed in Court.

#### **RICHR and Butler v. Kong**

The complainant elected to have this housing matter resolved outside of the Commission. AG refused to take case because of lack of cooperation from complainant. Suit was filed on behalf of the complainant and service has been effectuated. The respondents

**have filed an Answer.**

**RICHR and Rossi v. Attruia**

**A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-29-05. Judgment entered against Defendant. Payments on the judgment continue to be made on schedule.**

**RICHR v. Cardinale**

**A complaint for enforcement was filed with request for TRO which was granted. Hearing on Preliminary Inj. continued to 8/15. No service on respondent. Atty. entered for respondent and hearing was 9/29 on TRO and Motion to Attach. The hearing scheduled was continued to 1/12 at the request of defendant's attorney as the defendant was incarcerated. The hearing was held on 1/12. The parties submitted additional written arguments. Justice Thunberg has taken the case under advisement.**

**RICHR v. Cardinale, et al.**

**A complaint alleging a transfer of real estate in violation of the Uniform Fraudulent Transfers Act has been filed against Norman Cardinale, Mary Cardinale, Newport Developments LLC, AEGIS Lending and MERS. A lis pendens was filed in the Land Evidence Records for the town of Scituate. AEGIS and MERS were served.**

**RICHR v. Cardinale, et al.**

**A complaint alleging a transfer of partnership interests in real estate in violation of the Uniform Fraudulent Transfers Act has been filed against Norman Cardinale, Mary Cardinale, Onorato Cardinale, Rebecca Anthony and Aquidneck Island Developments, LLC.**

**RICHR and Powell v. Cinotti**

**The respondent elected to have this housing matter resolved outside of the Commission. Suit was filed on behalf of the complainant and a copy of the complaint was sent to the attorney for the respondents who agreed to accept service. Answer filed and discovery was to commence. Respondent made offer to settle and the complainant agreed. Angie sent out the withdrawal with settlement form to the complainant. The respondents are seeking additional time to pay.**

**RICHR and Lovegrove v. Escolastico**

**Default was entered against the defendant. Judgment was obtained and sent to FL lawyer for collection. Affidavit executed for FL attorneys so that RI judgment can be entered in Ct. and given full faith and credit. The FL attorneys have deposed Mr. Escolastico and determined that he has very few assets and a small salary. The Commission will ask the complainant to consider whether she wishes to accept small monthly payments.**

**RICHR and Morin v. Teofilo Silva, et al.**

**A complaint for enforcement, together with a Request for Production**

and Request for Admissions, was filed on 3-24-05. Service of the complaint will be made once respondent can be located. Motions for extended time within which to serve and for special service were filed. The motions were granted. Service has not been perfected yet.

**RICHR and Zeigler v. Laura Sitrin, Finance Director of the City of Newport**

Case resolved. Commission must annually monitor City training.

**RICHR v. Warner, et al.**

This case was settled but the defendants had not complied with the terms. Defendants were served with process. The paperwork was then rec'd and the case closed.

**Seymour v. Harvard Pilgrim Health**

Motion of the defendant to dismiss the complaint for failure to comply with discovery was down for hearing on May 7, 2006. Plaintiff produced discovery, case is moving forward in Court.

**South Kingstown School Committee et al. v. Stephen Alberghini and the Rhode Island Commission for Human Rights**

The respondents have appealed the Commission Decision and Order.

The parties have agreed that the Commission will delay filing of its record until motions pending before the Commission have been decided.

## **Tucker v. Blue Cross**

The complainant filed an administrative appeal of the Commission's finding of no probable cause. The administrative record was filed in Court.

## **OUTREACH – FY 07**

### **RI COMMISSION FOR HUMAN RIGHTS**

**DATE TRAINER(S) TOPIC LOCATION/**

**GROUP NUMBER**

**ATTENDING**

**09/21/2006**

**Gardner**

**Pracht Fair      Housing/Reasonable      Accommodations      and  
Modifications Residence Service Coordinators (Statewide)—Hosted at  
Huntington Towers Prov. 33**

**10/04/2006 Pracht**

**Rivera Equal Employment**

**Diversity Job Fair—CCRI Lincoln Over 200 visited Commission table**

**10/17/2006 Pracht Fair Housing Welcome Arnold Shelter—Cranston,  
RI 7**

**11/2/2006 Gaschen**

**Hiatt CLE:      “The      Commission’s      Hearing      Process” RI      Bar  
Association-- 45**

**11/9/2006 Evora**



**Pracht Housing and Employment Discrimination: Health Year  
Up-Providence RI 31**

**11/14/2006 Gardner**

**Pracht Fair Housing McAuley Village**

**Providence 14**

**11/15/2006 Gardner**

**Fair Housing for Staff and Managers Winslow Gardens Apartments  
(UM Retirement Center)—East Prov, RI 20 approx.**

**12/05/2006 Pracht Fair Housing Welcome Arnold Shelter—Cranston,  
RI 11**

**1/30/2007 Evora**

**Pracht Commission Overview Community Mediation Center of  
RI—Providence RI 9**

**2/01/2007 Gardner**

**Pracht Fair Housing with Emphasis on Familial Status  
Protections Greater Elmwood Neighborhood Services—Providence,  
RI 9**